

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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GARDEN CITY BOXING CLUB, INC.,

Plaintiff,

- against -

PAQUITA'S CAFÉ, INC. d/b/a,
PAQUITA'S CAFÉ, and
RAMON L. CALLEJA,

Defendants.
-----X

06 Civ. 6953 (RMB) (JCF)

ORDER

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I. Background

On or about September 26, 2007, United States Magistrate Judge James C. Francis IV, to whom the question of damages in this default proceeding had been referred, issued a Report and Recommendation ("Report"), recommending that "judgment be entered in favor of Garden City Boxing, Inc. and against Paquita's Café, Inc. d/b/a Paquita's Café in the amount of \$10,000 in statutory damages, \$10,000 in enhanced damages, and \$1,170.00 in costs, for a total of \$21,170.00." (Report at 13.)

The Report advises that "the parties shall have ten (10) days from this date to file written objections to this Report and Recommendation." (Report at 14.) To date, neither party has filed objections to the Report.

II. Standard of Review

In reviewing a magistrate judge's report and recommendation, the court may adopt those sections to which no objections have been made and which are not clearly erroneous or contrary to law. See Fed. R. Civ. P. 72(b); Thomas v. Arn, 474 U.S. 140, 149 (1985); Santana v. United States, 476 F. Supp. 2d 300, 302 (S.D.N.Y. 2007). A district judge may accept, reject, modify,

in whole or in part the findings and recommendations of the magistrate judge. See Santana, 476 F. Supp. 2d at 302; Deluca v. Lord, 858 F. Supp. 1330, 1345 (S.D.N.Y. 1994), aff'd, 77 F. 3d 578 (2d Cir. 1996).

III. Analysis

The facts set forth in the Report are incorporated herein by reference.

Having conducted a review of the Report and applicable legal authorities, the Court finds that the Report is not clearly erroneous and is in conformity with the law. See Pizarro v. Bartlett, 776 F. Supp. 815, 817 (S.D.N.Y. 1991).

Judge Francis appropriately determined that “[w]hile there should be some proportionality between the loss suffered [by the plaintiff] and the amount of statutory damages, the calculation should be generous enough to ensure that the plaintiff is fully compensated.” (Report at 7–8.) “The amount of damages assessed pursuant to [47 U.S.C.] § 605 rests within the sound discretion of the court.” Time Warner Cable of New York City v. Olmo, 977 F. Supp. 585, 589 (E.D.N.Y. 1997).

IV. Conclusion and Order

For the reasons stated herein and therein, the Court adopts the Report in its entirety. The Clerk of the Court is respectfully requested to enter judgment for Plaintiff in the amount of \$10,000 in statutory damages, \$10,000 in enhanced damages and \$1,170.00 in costs, for a total of \$21,170.00. The Clerk is further directed to close this case.

Dated: New York, New York
October 10, 2007.

A handwritten signature in black ink, appearing to read 'RMB', is positioned above a horizontal line.

RICHARD M. BERMAN, U.S.D.J.